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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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SEATTLE, WA 98101

EXAMINER

MANCHO, RONNIE M

ART UNIT	PAPER NUMBER
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3663

MAIL DATE	DELIVERY MODE
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10/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/774,301

Applicant(s)

IRISH ET AL.

Examiner

Ronnie Mancho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 6-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f):
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Applicant's amendments cite "zone influence data; user event data; event data" but disclosed no storage medium for the claimed data.

The disclosed invention is inoperative and therefore lacks utility. Further, the claimed invention is directed to non-statutory subject matter since applicant is merely claiming data with no storage medium.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-5 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 1-5 are not enabled. Applicant is claiming a structure, but applicants elected figure 1 and specification do not enable one skilled in the art to make and use the invention or

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ascertain the scope of the invention. Applicant's claimed "cartridge" still confuses the scope of the claims. As an example, claim 1 recite, "a cartridge comprising:

;

;

; and

a wireless computing device to execute the CARTRIDGE".

How can the cartridge comprise the "cartridge? One skilled in the art will not know how to make the invention as disclosed in the claims.

Claim 1 further recites "a wireless computing device to execute the cartridge". How and in what manner does the wireless computing device execute the "cartridge"? Applicant does not provide the requisite degree need for one skilled in the art to ascertain how to execute the claimed "cartridge".

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is not clear what all is meant and encompassed by, "zone of influence", or "zones of influence data". One skilled in the art cannot ascertain what is being influenced with regard to the claimed "zones", or does a zone of influence refer to a zone that has a mountain that influences peoples movement, flow of traffic, or a river that influences the economy of a region, etc? Since the claimed "zone of influence" the invention is not distinctly claimed.

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It is further not clear what all is meant and encompassed by, “a processor to trigger at least one user event on the cartridge when the further geolocational data substantially correlates to the stored geolocational data for the zone of influence associated with the trigger condition of the at least one user event”. It is noted that Applicant’s 8 indicates that Events are Triggers. Therefore “a user event” is not distinctly claimed from a “trigger”.

The rest of the claims are rejected for depending on independent claim 1.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Sporgis (6320495).

Regarding claim 1, Sporgis (figs. 1-4) discloses a system for executing user navigational events (col. 3, lines 19-27) triggered through geolocational data (fig. 3), comprising:

a cartridge (col. 4, lines 14-24; i.e. a collection of zones, items, events, etc; see specification, page 7, line 3) comprising:

zone of influence data to define one or more zones of influence and wherein each zone of influence is described by a plurality of stored geolocational data (col. 4, lines 14-24; i.e. a collection of zones, items, events, etc; see specification, page 7, line 3);

user event data to define one or more user events (i.e. individualized events; col. 3,

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lines 63-65, lines 19-26); and

event data to associate one or more of the user events (i.e. individualized events; col. 3, lines 63-65, lines 19-26) with each zone of influence (col. 4, lines 14-15), wherein each user event specifies a trigger condition (col. 5, lines 4-9) based on the stored geolocational data (col. 5, lines 9-14) for the associated zone of influence; and

a wireless computing device 10 to execute the cartridge (col. 4, lines 14-24; i.e. a collection of zones, items, events, etc; see specification, page 7, line 3), the wireless computing device comprising:

a locational device 11 (GPS col. 3, lines 1-18) to self-identify a location of the wireless device 10 based on further geolocational data (col. 5, lines 9-14); and

a processor (computer program 12, col. 3, lines 1-5) to trigger at least one user event (i.e. a new clue) on the cartridge when the further geolocational data substantially correlates to the stored geolocational data for the zone of influence associated with the trigger condition of the at least one user event (col. 5, lines 9-23).

Regarding claim 2, Sporgis (figs. 1-4) discloses the system according to claim 1, wherein the cartridge further stores data, comprising:

time event data specified by a start time and a duration associated with one or more of the user events with each timed events; and

the wireless computing device further comprising:

a timer measuring an elapsed time from the start time of each timed event (GPS inherently has time), wherein the trigger triggers at least one user event when the elapsed time substantially equals the duration of one such timed event.

Regarding claim 3, Sporgis (figs. 1-4) discloses the system of claim 1, wherein the user event specifies one or more independent trigger conditions and associates one or more of the user events with each independent trigger condition, and the trigger triggers at least one user event upon satisfaction of at least one independent trigger condition, and the trigger at least one user-definable event upon satisfaction of at least one independent trigger condition

Regarding claim 4, Sporgis (figs. 1-4) discloses the system according to Claim 1, wherein the zone of influence data defines each zone of influence as discrete, adjoining, overlapping, and nested relative to at least one other zone of influence.

Regarding claim 5, Sporgis (figs. 1-4) discloses the system according to Claim 1, wherein the zone of influence data defines at least one zone of influence as inheriting at least one user event from one or more other of the other zones of influence.

MPEP 2114

The statements of intended use or field of use, "for executing", "triggered through", "defining one or more....", "associating one or more", "specifies a.....based on", "executing the", "triggering.....when", "correlates to.....for", "the cartridge defines", "associates", "triggerswhen.....equals", "triggers.....upon satisfaction of.....trigger condition", etc clauses are essentially method limitations or statements of intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference.

See MPEP § 2114 which states: A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the

claimed apparatus from the prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim.

The prior art anticipates the structure limitations in the claims and is capable of performing the intended use steps in the claims.

Applicant may overcome the issues relating to MPEP 2114 by changing for example “a system for executing” to “--a system configured to execute--”; change “zone of influence data to define” to “--zone of influence data configured to define--”, etc. Applicant may use the above example through out the claims.

Response to Arguments

8. Applicant's arguments filed 7/30/07 have been fully considered but they are not persuasive.

Applicant argues that the specification provides support for the term cartridge. It is noted that applicant is reading limitations from the specification to the claims. Limitations from the specification should not be read into the claims. The office action cites a 112 rejection to the claim as not being enabling, etc. The examiner did not cite that the specification did not provide support for “cartridge”. Applicant seems therefore to be addressing issues not raised in the rejection.

It is noted that the claims are not enabled as pointed above. As an example applicant is claiming a structure, but applicants elected figure 1 and specification do not enable one skilled in the art to make and use the invention or ascertain the scope of the invention. Applicant's

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claimed “cartridge” still confuses the scope of the claims. As an example, claim 1 recite, “a cartridge comprising:

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a wireless computing device to execute the CARTRIDGE”.

How can the cartridge comprise the “cartridge? One skilled in the art will not know how to make the invention as disclosed in the claims.

Claim 1 further recites “a wireless computing device to execute the cartridge”. How and in what manner does the wireless computing device execute the “cartridge”? Applicant does not provide the requisite degree need for one skilled in the art to ascertain how to execute the claimed “cartridge”.

Therefore, the claims do not reasonably apprise those skilled in the art.

Applicant argues that Sporgis does not disclose the limitations in the claims. The examiner disagrees. Sporgis anticipates, “a cartridge (col. 4, lines 14-24; i.e. a collection of zones, items, events, etc; see specification, page 7, line 3) comprising:

zone of influence data to define one or more zones of influence and wherein each zone of influence is described by a plurality of stored geolocational data (col. 4, lines 14-24; i.e. a collection of zones, items, events, etc; see specification, page 7, line 3). The definition of cartridge in Sporgis is that disclosed in applicant’s specification, page 8.

It is further noted that Sporgis further anticipates, “a wireless computing device 10 to execute the cartridge (col. 4, lines 14-24; i.e. a collection of zones, items, events, etc; see specification, page 7, line 3), the wireless computing device comprising:

a locational device 11 (GPS col. 3, lines 1-18) to self-identify a location of the wireless device 10 based on further geolocational data (col. 5, lines 9-14); and

a processor (computer program 12, col. 3, lines 1-5) to trigger at least one user event (i.e. a new clue) on the cartridge when the further geolocational data substantially correlates to the stored geolocational data for the zone of influence associated with the trigger condition of the at least one user event (col. 5, lines 9-23)”. Applicant cannot base arguments on inconsistent limitations.

Applicant may overcome the issues relating to MPEP 2114 by changing for example “a system for executing” to --a system configured to execute--”; change “zone of influence data to define” to --zone of influence data configured to define--, etc. Applicant may use the above example through out the claims.

The rejections are proper and thus stand.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Communication

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571-272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Ronnie Mancho

Examiner

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JACK KEITH
SUPERVISORY PATENT EXAMINER